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IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO. 5715 / 2005

PETITIONER: Smt Sukanti Naik, W/o Late Shri Bhaskar Naik, aged about 42 years, R/o Kumharpara Santoshi Ward, Jagdalpur, District Bastar , Chhattisgarh

VERSUS

RESPONDENTS:

1. The Chief General Manager State Bank of India, Local Head Office, Hoshangabad Road, Bhopal (M.P.)

2. The Dy. General Manager, State Bank of India, Zonal Office, Near Chhattisgarh College, Raipur (C.G.)

3. The Asst. General Manager, State Bank of India, Regional Office, Region-4, Dharampura Road, Jagdalpur, District Bastar, (C.G.).

4. The Chief Manager State Bank of India, Main Branch Jagdalpur, Dist.Bastar, (C.G.)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUENCE OF WRIT IN THE NATURE OF MANDAMUS, PROHIBTION, CERTIORARI, AND ANY OTHER WRITS, DIRECTIONS OR ORDERS.

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 5715 of 2005

Petitioner — Smt. Sukanti Naik

Versus

Respondents — The Chief General Manager, State Bank of India and others

Post for order on 27 February, 2007

Sd/-
Satish K. Agnihotri
Judge

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 5715 of 2005

Petitioner — Smt. Sukanti Naik

Versus

Respondents — The Chief General Manager, State Bank of India and others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Present: Mr. Alok Dewangan, Advocate for the petitioner.
Mr. Sanjay K. Agrawal, Advocate for the respondents.

ORDER

(Passed on ....27th.... Day of February, 2007)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. By this petition, the petitioner seeks a writ/direction to the respondents to appoint the petitioner on compassionate basis with heavy compensation, for not appointing the petitioner immediately on death of her late husband.

2. The indisputable facts, in nutshell, are that the husband of the petitioner, namely, Shri Bhaskar Naik, while working as Security Guard in the State Bank of India, Main Branch, Jagdalpur, District-Bastar, died in harness on 6-7-2000 (Annexure P-2). The deceased left behind the petitioner three daughters and one minor son.

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3. The petitioner made an application for her appointment on compassionate basis. The State Bank of India-respondents by communication dated 22-7-2005 (Annexure P-1) informed to the petitioner that her income was found sufficient to tide over the financial crisis befallen on the family after death of the deceased husband.

4. Learned counsel appearing for the petitioner submits that the petitioner being dependent of the deceased husband is entitled to compassionate appointment in accordance with scheme for appointment on compassionate ground for dependent of deceased/employee retired on medical ground of the State Bank of India-respondents (Annexure R-1).

5. Clause 10 of the Scheme provides that determining the financial condition of the family is therefore, an important criterion for deciding the proposals for compassionate appointment.

Clause 10 of the Scheme reads as under:-

> "10 <u>Financial Condition of the family</u>
>
> Appointments in the public services are made strictly on the basis of open invitation of applications and merit. However, exceptions are made in favour of dependents of employees dying in harness and leaving their family in penury and without any means of livelihood. Determining the financial condition of the family is therefore, an important criterion for deciding the proposals for compassionate appointment. The following factors should be taken into account for determining the financial condition of the family:
>
> (i) Family pension

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(ii) gratuity amount received

(iii) employee's/employer's contribution to Provident Fund

(iv) any compensation paid by the Bank or its Welfare Fund

(v) proceeds of LIC Policies and other investments of the deceased employee

(vi) income of family from other sources

(vii) income of other family members from employment, or other sources

(viii) size of the family and verifiable liabilities, if any."

6. The respondents in its reply submitted that the monthly income of the petitioner's family is Rs. 3121/- as per actual figures when the carry home salary of the deceased husband was Rs. 3657/-. The brief particulars are as under:-

1.	Name of decease employee	: Late Shri Bhaskar Nayak
2.	Number of dependents	: 05
3.	Number of School/College going children.	: The dependents include 04 school going children.
4.	Number of marriageable daughters	: Nil
5.	Whether died of serious ailment	: No
6.	Outside loans	: Claimed outside borrowing Rs. 10000/-, which has not been substantiated beyond doubt. We have ignored the same.
7.	Salary/Income particulars	: Last drawn gross salary Rs. 5719/- Last drawn net salary Rs. 3577/- Notional monthly income Assessed Rs. 2798/-
8.	Availability of Dwelling unit	: No.

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9. **Remarks: Looking to the size of the family, age of the deceased employee, number and age of the dependents, non availability of dwelling unit and the notional monthly income of the family, the condition of the family may be considered as penurious. Our detailed note is place alongside.**

7. The identical scheme came-up for consideration before the Hon'ble Supreme Court in the case of ***State Bank of India & Ors. v. Jaspal Kaur {JT 2007 (3) SC 35 }***, the Hon'ble Supreme Court after having considered the scheme and source of income of the petitioner in that case held in paragraph 27, as under:-

> "27. Hence a major criterion while appointing a person on compassionate grounds should be the financial condition of the family the deceased person left behind. Unless the financial condition is entirely penury, such appointments cannot be made. In the present case the financial condition of the respondents family is not one of destitution, the appellants have already paid a sum of Rs. 4,57,607/- as terminal benefits (after deducting Rs. 19,183/- towards liabilities); a sum of Rs. 2055/- p.m. was being paid towards family pension and monthly income under Staff Mutual Welfare Scheme and in addition the total monthly income of the family comes to Rs. 5855/- (monthly pension of Rs. 2055/- + Rs. 3800/- p.m. as notional interest on the investment of Rs. 4,57,607/-). The competent fact finding authority on the basis of the above financial details had arrived at the conclusion that the financial condition of the family is not penurious and that the family earns sufficient income to maintain themselves. Hence appointment on compassionate ground was not granted to the

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respondent. We however, do not feel the necessity to interfere with this order of the Bank Authority on the fact situation of this case."

8. In the present case, the authorities based on the facts came to the conclusion that the family earns sufficient income to maintain themselves. Hence, I do not feel the necessity to interfere with this order of the Bank Authority on the fact situation of this case. Thus, the order dated 22-7-2005 (Annexure P-1) needs no interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

9. As a result and for the reasons stated hereinabove, the writ petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Subhash